

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-CR-163

GENARO AVILA-RODRIGUEZ, et al.,

Defendant.

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**ORDER ADOPTING RECOMMENDATION OF MAGISTRATE JUDGE**

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Presently before the Court is the Recommendation and Order of the assigned magistrate judge concerning motions filed by two of the twelve defendants in the above drug conspiracy case. Defendant Raul Juvenal Avila-Rodriguez (referred to here as Raul due to the fact that another defendant in the case shares the same surname, Avila-Rodriguez) filed a Motion to Dismiss the Indictment on the ground that his right to due process was denied by the Government's failure to retain all of the marijuana plants recovered from the various grow sites involved in the case. The magistrate judge conducted an evidentiary hearing on the issue and entered a recommendation that the motion be denied. No objection has been made to the magistrate judge's recommendation within the time allowed under the local rules and, therefore, the recommendation is adopted as the order of this Court.

In addition, Defendant Bernabe J. Nunez-Guzman filed a Motion to Suppress Identification requiring an evidentiary hearing, as well as several other motions. Because of delays in obtaining a transcript of certain video-taped evidence that might eliminate the need for a hearing and the

unavailability of the magistrate judge, the undersigned judge agreed to conduct the required hearing on the motion to suppress identification. As to the other motions filed by defendant Nunez-Guzman, the magistrate judge entered his Recommendation and Order for Denial.

Since the magistrate judges recommendation, Nunez-Guzman has obtained new counsel and the Court extended the time within which counsel must file objections to the Recommendation and Order. Accordingly, the Court withholds ruling on Nunez-Guzman's motions pursuant to the previous order of the Court.

Therefore, the Recommendation is adopted as to Defendant Raul Juvenal Avila-Rodriguez's Motion to Dismiss, and Defendant Nunez-Guzman will have until April 28, 2011 to file any objections.

**SO ORDERED** this 6th day of April, 2011.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge